

Attorneys for UNITE HERE LOCAL 2850

**STIPULATION TO INTERVENTION OF
UNITE HERE LOCAL 2850;
DECLARATION OF PAUL L. MORE;**

RECITALS

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2 1. Plaintiff California Restaurant Association (the “Association”) filed its
3 complaint in this action on November 17, 2016 and served its complaint on Defendant
4 City of Emeryville (the “City”) on or about December 14, 2016.

5 2. In its complaint, the Association alleges that the service-charge provisions of
6 the City of Emeryville Minimum Wage and Paid Sick Leave Ordinance (the “Ordinance”)
7 violate the takings clauses of the U.S. and California Constitutions, infringe on its
8 members’ speech rights under the U.S. and California Constitutions, violate the U.S. and
9 California equal-protection clauses, and are preempted by certain state and federal laws.
10 Doc. No. 1.

11 3. On December 28, 2016, the Association and the City stipulated to extend the
12 time for the City to file responsive pleadings. Doc. No. 11.

13 4. On January 10, 2017, the Association and the City stipulated to, and the
14 Court ordered, a further extension of time for the City to file responsive pleadings and a
15 briefing schedule for the City’s motion to dismiss and the Association’s motion for a
16 preliminary injunction. Pursuant to this briefing schedule, both motions will be heard on
17 March 9, 2017 at 2:00 p.m., opening briefs will be filed no later than January 31, 2017,
18 opposition briefs will be filed by no later than February 14, 2017, and reply briefs will be
19 filed by no later than February 21, 2017. Doc. No. 13.

20 5. Proposed Intervenor UNITE HERE Local 2850 (“Local 2850”) has
21 represented to the Association that it is a labor union that represents over 2,500 workers
22 in the hotel, restaurant, food-service, casino, and banquet industries in the East Bay,
23 including many tipped employees who work in Emeryville. Local 2850 further represents
24 to the Association that it was the chief proponent of the Ordinance’s service-charge
25 provisions, and that it was the main advocate for similar provisions in minimum-wage
26 ordinances adopted in Oakland and Berkeley. As such, Local 2850 contends that both it
27 and its members have a significant protectable interest in the Ordinance that could be
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1 affected by the outcome of this litigation, and further contends this interest differs from
2 that of the City.

3 6. For the purposes of this stipulation, the Association agrees not to contest
4 Local 2850's representations and contentions set forth in paragraph 5. The Association's
5 agreement, however, is without prejudice to its rights to dispute such representations and
6 contentions in this action. The Association expressly reserves any and all such rights.

7 **STIPULATION**

8 Accordingly, the Association, the City, and Local 2850, through their attorneys of
9 record, hereby stipulate and request that the Court make this stipulation an Order of the
10 Court:

11 1. That Local 2850 shall be permitted to intervene in this action as a
12 Defendant pursuant to Federal Rule of Civil Procedure 24.

13 2. That Local 2850 be granted leave to file a brief in support of the City of
14 Emeryville's motion to dismiss, and to file a reply brief in support of the City's motion and
15 a brief in opposition to the Associations preliminary injunction motion, all in accordance
16 with the deadlines set forth in the Court's January 10, 2017 stipulated order (Doc. No.
17 13).

18 Dated: January 31, 2017

Respectfully submitted,

19
20 /s/ Paul L. More

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21 *Attorneys for Plaintiff CALIFORNIA RESTAURANT ASSOCIATION*

1 **DECLARATION PURSUANT TO LOCAL CIVIL RULE 5-1(i)(3)**

2 I, Paul L. More, hereby attest pursuant to Local Civil Rule 5-1(i)(3) that that I have
3 obtained the concurrence in the filing of the document has been obtained from each of the
4 other signatories listed above.

5 I declare under penalty of perjury that the foregoing declaration is true and correct
6 under the laws of the United States of America. Executed on January 31, 2017, at San
7 Francisco, California

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9 **/s/ Paul L. More**

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